

AMENDMENT 2

Warrant Article 3: Wetland Conservation Area Conditional Use Permit

Ballot Language:

Are you in favor of adoption of Amendment 2 as proposed by the Planning Board for the town's Zoning Ordinance as follows:

Amend Article 3, Section B: Wetland Conservation Areas, to create a conditional use permit, create a twenty-five (25) foot no-disturb vegetative buffer around vernal pools and add the critical wetlands definition to the Definition section.

Proposed Amendment:

ARTICLE III Overlay Districts

B. Wetland Conservation Areas

1. Description

- a) The Wetlands Conservation Areas are those areas identified as poorly drained and very poorly drained soils in the publication, "Soil Survey of Rockingham County, New Hampshire," issued August 1985 and as amended. The Wetland Conservation Areas as herein defined are shown on the Wetlands Map of the Nottingham Natural Resource Inventory dated 5/27/99 and as amended.
- b) Reference material on soils is included in the publication "Soil Survey of Rockingham County, New Hampshire," August 1985 and as amended, on file with the Town Clerk, Planning Board and the Zoning Board of Adjustment.
- c) All pertinent notations, soil mapping unit designations, and other information shown in the publication "Soil Survey of Rockingham County, New Hampshire," August 1985 and as amended, shall be as much a part of this Ordinance as if the matters and things set forth by the document were fully described herein.
- d) Specific description of freshwater wetlands is described in Statutory Authority RSA 482-A: 4, specifically in chapter definitions "fresh water wetlands" with its Appendix A.

2. Pollution Control - No privy, cesspool, septic tank, sewage disposal area or area for the stockpiling of animal manures or other waste materials shall be constructed or maintained less than seventy-five (75') horizontal feet from the edge of a public waterbody, floodplain, wetland, intermittent streams or seasonably wet soil. No other structure shall be built or maintained less than fifty (50') horizontal feet from any poorly drained hydric B soils and less than seventy-five (75') horizontal feet from any very poorly drained hydric A soils.

3. There shall be a twenty-five (25) foot no-disturb vegetative buffer around vernal pools as defined by a certified wetland scientist. This vegetative buffer is not eligible for a Conditional Use Permit.

4. Non-conforming Structures and Uses - Any nonconforming use or structure which was legal prior to adoption of this Zoning Ordinance or any amendment thereto, may continue.

5. Permitted Uses - uses that do not result in the erection of any structure or alter the surface configuration of the land by the addition of fill or by dredging, without a Conditional Use Permit, such as:

- a) forestry - tree farming

- b) agriculture, including grazing, farming, truck gardening and harvesting crops but not including the stockpiling of manure.
 - c) construction of well water supplies
 - d) wildlife habitat development and management
 - e) parks and such recreation uses as are consistent with the purpose and expressed intentions of this ordinance.
 - f) conservation areas and nature trails
 - g) open space in accordance with subdivision regulations and other sections of this ordinance.
6. Conditional Uses – A Conditional Use Permit may be granted by the Planning Board (RSA 674:21 11) for the construction of roads, other access ways, pipelines, power lines, and other transmission lines in areas designated as non-critical wetlands. Conditional Use Permits will only be granted provided that no alternative route, which does not cross a wetland or has less detrimental impact on the wetland, is feasible and all of the following conditions are found to exist:
- a) The proposed construction is essential to the productive use of land not within a Wetland Conservation Area and the upland area considered for development is not smaller (acreage) than the wetland area (acreage) being considered;
 - b) Designs, construction, and maintenance methods will be such as to minimize detrimental impact upon the wetland and will include restoration of the site as nearly as possible to its original grade and conditions;
 - c) The Nottingham Conservation Commission has provided comments relative to the value of the wetland under construction and design of the proposed project as it relates to the wetland.
 - d) Economic advantage alone is not a reason for the proposed construction;
 - e) Prior to the granting of the Conditional Use Permit under this Section, the applicant shall agree to submit a performance security to ensure all construction is carried out in accordance with an approved design. The security shall be submitted in a form and amount, and surety and conditions satisfactory to 1) the Planning Board for site plan and subdivision application and 2) the Board of Selectman in all other cases. The security shall be submitted and approved prior to issuance of any permit authorizing construction.
 - (1) Proper surety in the form of cash bonds must be submitted to the Town to ensure the completion of work. No work shall start on the property until proper surety is in place. The surety amount shall be 115% of the current estimated cost.
 - (2) An itemized cost estimate shall be submitted for approval to the Planning Board, and Town Counsel prior to the surety being accepted. The cost estimate shall include the costs of inspection and testing. Surety may be drawn down no more frequently than monthly. In no case shall the surety be drawn below ten percent until the completed road has successfully stood for two (2) years.
 - (3) The surety may be used by the Town to repair work that has failed or was not performed in accordance with the plans and specifications, to restore the site should the project default, to cover the cost of testing and inspections and to cover legal or other fees the Town may incur during the collection process.
 - f) The Planning Board may require the applicant to submit an Environmental Impact Assessment when necessary to evaluate an application made under this Section. The cost of this assessment shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the costs of other special investigative studies and for the review of documents required by particular applications.
7. Reclassification of Soils - in the event that a soil classification is challenged by the applicant, abutter, or Planning Board, the Planning Board will make an onsite inspection. If the Planning Board considers the classification to be correct, then the applicant may challenge this decision by presenting evidence by a soil scientist or others qualified in soil classification. The Board may determine that the restrictions pertaining to the challenged soil classifications in this ordinance do not apply, at any time after the onsite inspection.

8. Critical Wetlands - Critical wetlands are those areas identified on the Wetlands Map of the Nottingham Natural Resource Inventory dated 5/27/99 and as amended. Actual determination of Critical Wetland boundaries will be determined by onsite delineation of wetlands according to the standards of the NH Department of Environmental Services Wetlands Bureau Administrative Rules by a New Hampshire Certified Wetlands Scientist. There shall be no development in the Critical Wetland or the 100-foot buffer to the Critical Wetland. All structures will be set back 100 feet from the Critical Wetland boundary. Critical Wetlands are not eligible for a Conditional Use Permit.

ARTICLE VI Definitions

B. Defined Terms

CONSERVATION EASEMENT: A permanent legal restriction against future development and other activities as specified in the conservation easement deed. An easement may be worded to permit or restrict public access, allow or disallow recreational uses, allow or disallow other uses, such as limited development, agriculture, or forestry. Easements are tied to the title of the land, regardless of subsequent ownership and runs with the land in perpetuity.

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DESIGNATED OPEN SPACE: Reserved land that is permanently protected from further development and remains in a natural condition or is managed according to an approved management plan for natural resource functions, e.g., forestry, agriculture, habitat protection, passive recreation (See Article 4, Section S.9.c.2), or limited uses as approved by the Planning Board under this ordinance as part of an open space subdivision.